

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

BRICE HUTTINGER,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent

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CIVIL ACTION NO. AW-10-524

MEMORANDUM OPINION

Petitioner is an inmate confined in the United States Penitentiary in Adelanto, California. He has filed the instant petition which was docketed as Petition for Writ of Habeas Corpus filed pursuant to 28 U.S.C. 2241, but which is in reality a Motion to Vacate filed pursuant to 28 U.S.C. 2255. Upon review of the Motion, the Court concludes that transfer of this case to the proper federal court located in Montana is appropriate.

Petitioner alleges that he received ineffective assistance of counsel during his federal criminal trial which was conducted by the United States District Court for the District of Montana. *See United States v. Huttinger*, Criminal No. 08-0039 (D. MT. 2008). A review of that Court's docket indicates that Petitioner has recently filed a 2255 motion which remains pending. Motions to Vacate filed pursuant to 28 U.S.C. 2255 are to be filed in the Court of Appeals. Accordingly, the instant case shall be transferred to the United States District Court for the District of Montana, Great Falls Division.¹

A separate Order follows.

Date: April 8, 2010

/s/
Alexander Williams, Jr.
United States District Judge

¹ That court is in the best position to determine whether the instant motion is duplicative or supplemental to which Petitioner has filed in the United States District Court for the District of Montana.